

House Engrossed

FILED

**KEN BENNETT
SECRETARY OF STATE**

State of Arizona
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First Regular Session
2011

CHAPTER 77

HOUSE BILL 2310

AN ACT

AMENDING SECTIONS 3-401, 3-404, 3-405, 3-406, 3-408, 3-409, 3-412, 3-413, 3-414, 3-415, 3-419, 3-422, 3-424, 3-425 AND 3-428, ARIZONA REVISED STATUTES; AMENDING TITLE 3, CHAPTER 3, ARTICLE 1, ARIZONA REVISED STATUTES, BY ADDING SECTION 3-430; AMENDING SECTION 41-1005, ARIZONA REVISED STATUTES; RELATING TO AGRICULTURAL MARKETING ORDERS AND MARKETING AGREEMENTS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 3-401, Arizona Revised Statutes, is amended to read:

3-401. Definitions

In this article, unless the context otherwise requires:

1. "Affected commodity" means the specific citrus, fruit or vegetable regulated pursuant to article 2 or 4 of this chapter and subject to the marketing agreement or order or the proposed marketing agreement or order.

2. "Affected person" means a producer or shipper of an affected commodity.

~~3. "Assistant director" means the assistant director of the office of commodities development and promotion of the Arizona department of agriculture.~~

~~4.~~ 3. "Marketing agreement" or "agreement" means an agreement developed by producers or shippers of the affected commodity and entered into by the assistant director pursuant to this article.

~~5.~~ 4. "Marketing commission" or "commission" means the marketing commission established under section 3-413.

~~6.~~ 5. "Marketing committee" or "committee" means a marketing committee established by a marketing agreement according to section 3-426.

~~7.~~ 6. "Marketing order" or "order" means an order developed by producers or shippers of the affected commodity and issued by the assistant director pursuant to this article.

~~8.~~ 7. "Person" means any individual, firm, corporation, trust, association or partnership.

~~9.~~ 8. "Producer" means a person who has a financial interest in producing or causing citrus, fruit or vegetable commodities to be produced for market in commercial quantities.

~~10.~~ 9. "Shipper" means a person that engages in shipping, transporting, selling or marketing citrus, fruits or vegetables under his THE SHIPPER'S own registered trademark or label or a person who first markets the fruits or vegetables for the producer.

~~11.~~ 10. "Supervisor" means the supervisor of standardization of the Arizona department of agriculture.

~~12.~~ 11. "Volume" means cartons or the equivalent weight of Arizona grown products marketed in the preceding marketing season.

~~13.~~ 12. "Written assent" means a signed statement of an affected person consenting to the terms of a marketing order.

Sec. 2. Section 3-404, Arizona Revised Statutes, is amended to read:

3-404. Marketing order and marketing agreement programs

A. A marketing order or marketing agreement applies to all producers and shippers included under the terms of the order or agreement.

B. A marketing order or marketing agreement may:

1. Provide for establishing standards for the quality, condition, size or maturity of a commodity marketed in or shipped outside this state.

Standards shall not be less than the standards provided by articles 2 and 4 of this chapter and rules adopted pursuant to those articles.

2. PROVIDE FOR ESTABLISHING, AND VERIFYING COMPLIANCE WITH, FOOD SAFETY STANDARDS.

~~2-~~ 3. Provide for plans to conduct programs for advertising and sales promotion.

~~3-~~ 4. Provide for research studies to improve production, distribution and marketing.

~~4-~~ 5. Provide for educational programs designed to inform producers and shippers about quality improvement or about practices, procedures and methods used in production, processing and marketing.

~~5-~~ 6. Provide for research and educational programs concerning health, food, nutritional, therapeutic and dietetic qualities or for developing new food products or new uses for agricultural products.

~~6-~~ 7. Provide programs to control and eradicate insects, disease and parasites.

~~7-~~ 8. Provide for establishing and regulating the use of an official brand, trade name or label.

~~8-~~ 9. Provide programs to gather and disseminate weather data to producers.

~~9-~~ 10. Provide for developing and funding programs, jointly or cooperatively, with public or private organizations, including funding marketing information services.

~~10-~~ 11. Authorize persons to participate in hearings regarding agricultural chemicals that are used by the affected commodity.

Sec. 3. Section 3-405, Arizona Revised Statutes, is amended to read:

3-405. Contents of a marketing order

A. A marketing order shall:

1. Describe the territory of this state to be regulated by the marketing order.

2. State the type of marketing order program.

3. Establish a marketing commission and, prescribe the number of commission members AND SPECIFY AN OFFICIAL NAME OF THE COMMISSION.

4. State the maximum rate of assessments in amounts sufficient to cover all expenses of the marketing order if assessments are required.

5. State whether the marketing order applies to producers or shippers, or both. If the marketing order applies to shippers only, shippers shall pay any assessments owing and shall not charge producers any assessments for the marketing order. If the marketing order applies to both producers and shippers, the shippers shall not charge producers any assessments that the shipper is required to pay pursuant to the marketing order.

6. Apply uniformly to all persons of the same category.

7. State whether the costs of the ~~hearing~~, PUBLIC MEETING AND referendum or written assent procedures shall be reimbursed by any assessments received if the marketing order is approved.

1 8. State the amount of time an inspector may hold a lot found to be in
2 violation of the marketing order and specify the time period allowed to
3 recondition a product pursuant to section 3-420.

4 B. The marketing order may apply to more than one commodity and may
5 include any other relevant information.

6 Sec. 4. Section 3-406, Arizona Revised Statutes, is amended to read:

7 3-406. Initiation of the marketing order process

8 A. To initiate or substantially change a marketing order, an affected
9 person shall file a petition with the department signed by ten per cent of
10 producers or shippers, or both producers and shippers, of the affected
11 commodity that is the subject of the proposed marketing order. The petition
12 shall state:

13 1. The affected commodity to be regulated by the marketing order.

14 2. A description of the territory of this state to be regulated by the
15 proposed marketing order.

16 3. The category of persons to be regulated by the marketing order.

17 4. A draft of the proposed marketing order.

18 5. The proposed method of voting.

19 6. Any other relevant information.

20 B. Within thirty days after receiving the petition, the department
21 shall initiate developing a department list and shall prepare a budget to
22 handle the petition. The department shall require a deposit from the
23 petitioners to cover the costs of the ~~hearing~~ PUBLIC MEETING and referendum
24 or written assent procedures. The deposit may be reimbursed by any
25 assessments received if the marketing order is approved.

26 Sec. 5. Section 3-408, Arizona Revised Statutes, is amended to read:

27 3-408. Public meeting; notice

28 A. A public meeting on the petition shall be held within sixty days
29 after the department receives the petition.

30 B. Notice shall be sent to all affected persons on the department list
31 and interested parties five to thirty days before the date of the public
32 meeting. The notice shall state the time, date and place of the public
33 meeting, the territory and commodity affected by the proposed marketing order
34 and that the department will receive evidence and testimony concerning the
35 department list and the proposed marketing order.

36 C. The ~~assistant~~ director, or ~~his~~ THE DIRECTOR'S designee, shall
37 conduct the public meeting and shall receive evidence and testimony
38 concerning the proposed marketing order, the accuracy of the department list
39 and the preferred method of voting on the proposed marketing order. The
40 ~~assistant~~ director or designee may receive evidence and testimony regarding
41 the period of time required for filing written assents and any other relevant
42 matters.

43 D. The department may hold more than one public meeting if the
44 affected commodity is grown in more than one area of this state.

1 Sec. 6. Section 3-409, Arizona Revised Statutes, is amended to read:
2 3-409. Findings

3 A. Based on testimony received at the public meeting, the assistant
4 director may recommend to the petitioners that the proposed marketing order
5 be modified. If the petitioners make any substantial changes to the proposed
6 marketing order after the public meetings, there shall be at least one
7 additional public meeting to receive evidence and testimony regarding the
8 revised marketing order. If the petitioners make only technical changes to
9 the proposed marketing order, no additional public meeting is required.

10 B. The ~~assistant~~ director shall approve the marketing order if ~~he~~ THE
11 DIRECTOR finds:

12 1. The same marketing agreement or marketing order program is not in
13 effect for the affected commodity in the territory described by the proposed
14 marketing order.

15 2. The marketing order complies with this article.

16 3. The costs of administering the proposed marketing order are met by
17 the proposed assessment, if an assessment is necessary.

18 C. The ~~assistant~~ director shall issue a decision to be mailed to all
19 persons appearing at the public meeting within twenty days after the
20 conclusion of all public meetings. The decision shall state the DIRECTOR'S
21 findings ~~of the assistant director~~, the method of voting on the proposed
22 marketing order and a summary of the evidence and testimony presented at the
23 public meetings.

24 Sec. 7. Section 3-412, Arizona Revised Statutes, is amended to read:
25 3-412. Terminating a marketing order

26 A. The marketing order expires on the fifth anniversary of its
27 effective date unless specified otherwise in the marketing order, terminated
28 previously or reapproved.

29 B. If the marketing order has been substantially changed and the
30 substantial change was submitted for approval to those persons regulated by
31 the marketing order during the existing term of the marketing order, the
32 marketing order's term is deemed reapproved from the date of the approval of
33 the substantial change.

34 C. During the last year the marketing order is effective, the
35 department shall develop a list pursuant to section 3-407 and hold a public
36 meeting pursuant to section 3-408 and an election pursuant to section 3-410.
37 If the marketing order is reapproved, the new term begins on the expiration
38 of the existing term.

39 D. If at least forty per cent of the persons regulated by a marketing
40 order, by volume and by number, present a petition to terminate the marketing
41 order to the department and the signatures have been collected within ninety
42 days, the department shall hold a public meeting pursuant to section 3-408
43 and depending on the testimony presented at the public meeting may submit the
44 marketing order for an election pursuant to section 3-410 within sixty days
45 after the filing of the petition. The petition shall state the text of the

1 marketing order, the proposed method of voting and any other pertinent
2 information.

3 E. If a marketing commission, by a two-thirds vote of its membership,
4 determines that it is no longer in the best interest of the persons regulated
5 by the marketing order to continue the marketing order, the department shall
6 submit the marketing order to an election pursuant to section 3-410 within
7 thirty days after the marketing commission's vote.

8 F. If a marketing commission does not meet for three consecutive
9 marketing seasons, the ~~assistant~~ director may call a public meeting pursuant
10 to section 3-408 to determine whether an election on termination is
11 necessary.

12 G. If an election is conducted by referendum, the marketing order
13 shall be terminated if a majority of the persons regulated by the marketing
14 order by number and volume votes to terminate the marketing order.

15 H. If an election is conducted by written assent, the marketing order
16 shall be terminated if a majority of the persons regulated by the marketing
17 order by number and volume files a written assent to terminate the marketing
18 order with the department.

19 I. The department shall certify the election results. The department
20 may not disclose how a particular person voted but shall disclose who voted
21 and the total number of votes cast in favor of the marketing order and the
22 total number of votes cast opposing the marketing order.

23 J. If the department certifies that the marketing order shall be
24 terminated pursuant to the results of the referendum or written assent, the
25 marketing order terminates five days after the notice is mailed to every
26 person regulated by the marketing order and persons who request notification.

27 K. A marketing order shall not be submitted for termination until one
28 year after an election.

29 Sec. 8. Section 3-413, Arizona Revised Statutes, is amended to read:

30 3-413. Marketing commission; appointment; term

31 A. A marketing commission is composed of three to nine members with
32 rotating terms of three years. Two-thirds of the members shall be appointed
33 collectively by the director, ~~AND supervisor and assistant director~~, from
34 nominations of affected persons or representative commodity associations and
35 one-third shall be selected by the other members of the marketing commission.

36 B. Members shall be selected to represent areas of this state that
37 produce the affected commodity on the basis of the volume of total production
38 in this state for the affected commodity.

39 C. A marketing commission shall be composed of persons who are
40 regulated by the marketing order and shall include both producers and
41 shippers if the marketing order regulates both categories.

42 D. Commission members are not eligible to receive compensation but are
43 eligible for reimbursement of expenses pursuant to title 38, chapter 4,
44 article 2.

1 Sec. 9. Section 3-414, Arizona Revised Statutes, is amended to read:
2 3-414. Powers and duties of a marketing commission or marketing
3 committee
4 A. A marketing commission or marketing committee shall:
5 1. Collect, receive and disburse any monies to be used to administer a
6 marketing order or marketing agreement.
7 2. Annually elect a chairman, secretary and treasurer from among its
8 members.
9 3. Meet at least twice annually or at additional times called by the
10 chairman or when requested by a quorum of the marketing commission or
11 marketing committee.
12 4. Keep a permanent record of its proceedings and make these records
13 available for public inspection for any lawful purpose.
14 ~~5. Provide for an annual audit of any of its accounts by a certified~~
15 ~~public accountant and make an annual financial statement available to any~~
16 ~~affected person and the auditor general on request.~~
17 6. 5. Prescribe any assessments to be assessed within the limits
18 prescribed in this article, the marketing order or the marketing agreement.
19 B. A marketing commission shall:
20 1. Prepare for the regulated commodity an annual report of its
21 activities, receipts and expenditures. A copy of the annual report shall be
22 available to any interested person on request.
23 2. Organize and administer any election called under this article or
24 the marketing order.
25 C. A marketing commission or marketing committee may:
26 1. Sue and be sued as a marketing commission or marketing committee,
27 without individual liability, for acts of the marketing commission or
28 marketing committee within the scope of the powers and duties conferred on it
29 by this article, the marketing order or the marketing agreement.
30 2. Enter into contracts to carry out the purposes of this article, the
31 marketing order or the marketing agreement.
32 3. Appoint committees or subcommittees of the marketing commission or
33 marketing committee, ex officio marketing commission or marketing committee
34 members or advisory groups composed of representatives from organizations,
35 institutions or businesses related to or interested in the regulated
36 commodity.
37 4. Employ or retain and fix the compensation of a qualified person or
38 qualified entity to manage the marketing order or marketing agreement, on
39 behalf of the marketing commission or marketing committee, and other
40 personnel that are necessary to carry out the provisions of this article, the
41 order or the agreement.
42 5. Cooperate with any local, state or nationwide organization or
43 agency engaged in work or activities similar or related to those of the
44 commission or the committee and enter into contracts with the organizations
45 or agencies for carrying on joint programs.

1 6. Make grants to research agencies to finance appropriate studies, or
2 to purchase or acquire equipment and facilities consistent with the marketing
3 order or marketing agreement.

4 7. Act jointly and in cooperation with this state or any other state
5 or the federal government and spend monies to administer any program deemed
6 by the commission or committee to be beneficial to the affected commodity.

7 8. Accept grants, donations, contributions, gifts, property or
8 services or other assistance ~~for~~ FROM public or private sources.

9 9. PROVIDE EDUCATIONAL MATERIALS TO:

10 (a) INTERESTED PARTIES THAT ARE NOT AFFECTED PERSONS AT A CHARGE FIXED
11 BY THE COMMISSION OR COMMITTEE COMMENSURATE WITH THE COST OF COMPILATION,
12 PUBLICATION AND ISSUANCE.

13 (b) PUBLIC OFFICIALS WITHOUT CHARGE.

14 10. RETURN ASSESSMENTS TO AFFECTED PERSONS ON A PRO RATA BASIS TO THE
15 EXTENT THAT MONIES COLLECTED EXCEED BUDGETED EXPENSES.

16 ~~9-~~ 11. Adopt rules ~~pursuant to title 41, chapter 6~~ necessary to
17 promptly and effectively administer this article. TITLE 41, CHAPTER 6 DOES
18 NOT APPLY TO RULEMAKING UNDER THIS ARTICLE, BUT THE COMMISSION OR COMMITTEE
19 SHALL PROVIDE FIFTEEN DAYS' ADVANCE NOTICE OF THE MEETING AT WHICH RULES WILL
20 BE ADOPTED. THE COMMISSION OR COMMITTEE SHALL RECEIVE PUBLIC TESTIMONY AT
21 THE MEETING REGARDING THE RULES.

22 ~~10-~~ 12. Refer to persons regulated under a marketing order for an
23 advisory vote the question of setting assessments or establishing or
24 continuing any program authorized by the order.

25 ~~11-~~ 13. Investigate and prosecute in the name of this state any legal
26 action to enforce the collection or ensure payment of the authorized
27 assessments.

28 ~~12-~~ 14. Gather data or any other information the commission or
29 committee deems necessary to administer and enforce the order or agreement.

30 ~~13-~~ 15. Receive complaints of violations of the order or agreement and
31 refer the complaints to the proper authorities.

32 16. PROVIDE FOR AN ANNUAL AUDIT OF ITS ACCOUNTS BY A QUALIFIED PUBLIC
33 ACCOUNTING FIRM AND, IF AN AUDIT OR FINANCIAL STATEMENT IS PREPARED, MAKE THE
34 AUDIT OR FINANCIAL STATEMENT AVAILABLE TO ANY AFFECTED PERSON AND THE AUDITOR
35 GENERAL ON REQUEST.

36 Sec. 10. Section 3-415, Arizona Revised Statutes, is amended to read:

37 3-415. Administrative services; reimbursement

38 A. The marketing commission or marketing committee may employ staff,
39 AT A RATE OF COMPENSATION DETERMINED BY THE COMMISSION OR COMMITTEE, to serve
40 at the pleasure of the commission or committee, and ~~may~~ SHALL prescribe the
41 terms and conditions of employment of employees as necessary to perform the
42 functions prescribed by this article, the marketing order or marketing
43 agreement. ~~The commission or committee may provide, at a rate or amount~~
44 ~~determined by the commission or committee, compensation, vehicles and vehicle~~
45 ~~expense, health care benefits, life insurance, retirement and any other cost~~

1 ~~or expense associated with employment. Reimbursement for travel and~~
2 ~~subsistence expenses for commission or committee employees shall be in the~~
3 ~~amount prescribed by title 38, chapter 4, article 2.~~ All employees of the
4 commission or committee are exempt from title 38, chapter 4, ~~articles~~ ARTICLE
5 1 and ~~4 and chapter 5, article 2~~ and title 41, chapter 4, articles 5 and 6
6 and are not under the jurisdiction of the department of administration.

7 B. The commission or committee may also enter into an interagency
8 agreement ~~pursuant to title 11, chapter 7, article 3~~ with the department to
9 provide necessary administrative services to the commission or committee
10 including:

11 1. Providing secretarial and other services necessary for the
12 commission or committee to carry out its activities.

13 2. Establishing separate operating accounts for the commission or
14 committee.

15 3. Providing necessary financial and accounting services to the
16 commission or committee, including the issuance of checks, payment of bills
17 approved by the commission or committee, annual audits, expenditure and
18 receipt reports whether monthly or annually, preparation of annual budget and
19 any other activities requested by the commission or committee.

20 4. Receiving mail and other communication for the commission or
21 committee.

22 5. Receiving monies authorized under this article for deposit,
23 pursuant to sections 35-146 and 35-147, in the appropriate funds.

24 6. Accepting donated monies on behalf of the commission or committee
25 to be credited to the account of the commission or committee.

26 7. Providing space for the meetings of the commission or committee.

27 8. Providing any other administrative services that the commission or
28 committee requests or finds necessary.

29 C. If the department performs any function under this article, it acts
30 as the agent of the marketing commission or marketing committee and has no
31 authority or control over the commission or committee or the commission's or
32 committee's employees or assets. The commission or committee shall reimburse
33 the department for any administrative services the department provides from
34 the monies received under the marketing order or marketing agreement in an
35 amount agreed on by the commission or committee and the director. Any
36 services provided by citrus, fruit and vegetable standardization or the
37 department in the normal scope of services are not subject to reimbursement
38 from a marketing commission or marketing committee.

39 Sec. 11. Section 3-419, Arizona Revised Statutes, is amended to read:

40 3-419. Deposit of assessments; use on termination

41 A. Monies collected pursuant to ~~sections 3-417 and 3-424~~ THIS ARTICLE
42 shall be deposited in the marketing commission's or marketing committee's
43 accounts to be administered and disbursed by the commission or committee for
44 the purposes prescribed in this article. Monies collected pursuant to a

1 marketing order or marketing agreement may not be used for any purpose other
2 than the order or agreement.

3 B. The monies in a marketing commission or marketing committee account
4 may be invested pursuant to section 35-313. Interest earned on these monies
5 shall be credited to the marketing commission or marketing committee account.

6 C. If monies are unexpended at the end of a fiscal period, the
7 marketing commission or marketing committee shall carry the monies forward to
8 the next fiscal period.

9 D. If the marketing order or marketing agreement is terminated and the
10 expenses are paid, monies shall be returned to the affected persons pro rata
11 unless the amounts are too small to be practicable or may be expended by the
12 marketing commission or marketing committee on any program consistent with
13 the marketing order or marketing agreement.

14 E. No specific legislative appropriation is necessary to operate a
15 marketing commission or marketing committee.

16 Sec. 12. Section 3-422, Arizona Revised Statutes, is amended to read:

17 3-422. Records and reports

18 A. The department may require affected persons to maintain records
19 about their operation and furnish the records on request to the marketing
20 commission, marketing committee or department to ensure compliance with a
21 marketing order or marketing agreement.

22 B. The marketing commission, marketing committee or hearing officer
23 may hold a hearing in which persons may be required to testify under oath.

24 C. All information concerning the businesses of individual producers
25 and shippers, including cartons or equivalent marketed, and the dollar value
26 of gross annual sales AND AUDIT AND INSPECTION RECORDS, is not a public
27 record and shall not be disclosed except:

28 1. By court order ~~or~~.

29 2. To a person who presents a release signed by the producer or
30 shipper.

31 3. IN AN ANNUAL REPORT OR SIMILAR DOCUMENT IF INDIVIDUAL PRODUCERS AND
32 SHIPPERS ARE NOT IDENTIFIABLE.

33 4. IN RELATION TO A JUDICIAL OR ADMINISTRATIVE PROCEEDING FOR THE
34 PURPOSE OF ENFORCING OR ADMINISTERING AN ORDER OR AGREEMENT.

35 D. All results of elections for a marketing order, marketing
36 agreements, contracts entered into by a marketing commission or marketing
37 committee and annual reports are public records.

38 Sec. 13. Section 3-424, Arizona Revised Statutes, is amended to read:

39 3-424. Initiation of the marketing agreement process; contents

40 A. Two or more persons who produce or ship the affected commodity
41 shall file an application with the ~~assistant~~ director together with a filing
42 fee of five hundred dollars to cover the costs of the public meeting. If the
43 public meeting costs less than five hundred dollars, the difference shall be
44 refunded to the applicants. The application shall state:

45 1. The affected commodity to be regulated by the marketing agreement.

1 2. A description of the territory of this state to be regulated by the
2 marketing agreement.

3 3. The category of persons to be regulated by the marketing agreement.

4 4. A draft of the proposed marketing agreement.

5 5. Any other relevant information.

6 B. A marketing agreement shall:

7 1. Describe the territory of this state to be regulated by the
8 marketing agreement and the persons to be regulated by the marketing
9 agreement.

10 2. State the type of marketing agreement program.

11 3. Specify the number of marketing committee members AND THE OFFICIAL
12 NAME OF THE COMMITTEE if a marketing committee is to be established.

13 4. Provide for the rate of assessments in amounts sufficient to cover
14 all expenses of the marketing agreement if assessments are required and
15 specify a method of collecting assessments.

16 5. State whether the marketing agreement applies to producers or
17 shippers, or both. If the marketing agreement applies to shippers only,
18 shippers shall pay any assessments owing and shall not charge producers any
19 assessments for the marketing agreement. If the marketing agreement applies
20 to both producers and shippers, the shippers shall not charge producers any
21 assessments that the shipper is required to pay pursuant to the marketing
22 agreement.

23 6. Apply uniformly to all persons of the same category.

24 7. State whether the costs of the filing fee will be reimbursed by any
25 assessments received pursuant to the marketing agreement.

26 8. State the amount of time an inspector may hold a lot found to be in
27 violation of the marketing agreement and specify the time period allowed to
28 recondition the product pursuant to section 3-420.

29 C. The marketing agreement may apply to more than one commodity and
30 may state any other relevant information.

31 Sec. 14. Section 3-425, Arizona Revised Statutes, is amended to read:

32 3-425. Public meeting; notice; findings

33 A. At least five days but not more than twenty days after the
34 application is filed with the department, the ~~assistant~~ director, or ~~his~~ THE
35 DIRECTOR'S designee, shall hold a public meeting. A notice shall be sent to
36 all persons that may be affected by the proposed marketing agreement that
37 states the time, date and place of the public ~~hearing~~ MEETING and that the
38 department will receive evidence and testimony concerning the proposed
39 marketing agreement. An official department list of affected persons does
40 not have to be prepared.

41 B. At the public meeting, the ~~assistant~~ director, or ~~his~~ THE
42 DIRECTOR'S designee, shall receive evidence and testimony concerning the
43 proposed marketing agreement. The ~~assistant~~ director may hold more than one
44 ~~hearing~~ MEETING if the affected commodity is grown in more than one area of
45 this state.

1 C. BASED ON TESTIMONY RECEIVED AT A PUBLIC MEETING, THE DIRECTOR MAY
2 RECOMMEND TO THE PETITIONERS THAT THE PROPOSED MARKETING AGREEMENT BE
3 MODIFIED. IF THE PETITIONERS MAKE ANY SUBSTANTIAL CHANGES TO THE PROPOSED
4 MARKETING AGREEMENT AFTER THE PUBLIC MEETING, THERE MUST BE AT LEAST ONE
5 ADDITIONAL PUBLIC MEETING TO RECEIVE EVIDENCE AND TESTIMONY REGARDING THE
6 REVISED MARKETING AGREEMENT. IF THE PETITIONERS MAKE ONLY TECHNICAL CHANGES
7 TO THE PROPOSED MARKETING AGREEMENT, NO ADDITIONAL PUBLIC MEETING IS
8 REQUIRED.

9 ~~C.~~ D. The ~~assistant~~ director shall approve the marketing agreement if
10 he THE DIRECTOR finds:

11 1. The same marketing agreement or marketing order program is not in
12 effect for the affected commodity in the territory described by the proposed
13 marketing agreement.

14 2. The marketing agreement complies with this article.

15 3. The signatories of the marketing agreement have sufficient monies
16 to defray expenses of formation, administration and enforcement of the
17 marketing agreement.

18 4. The marketing agreement is signed by all participants.

19 Sec. 15. Section 3-428, Arizona Revised Statutes, is amended to read:
20 3-428. Approval of a marketing agreement; amendments; term

21 A. A marketing agreement applies only to producers and shippers who
22 sign the marketing agreement and is effective on the approval of the
23 ~~assistant~~ director. Additional signatories may be added with the approval of
24 the ~~assistant~~ director. If signatories withdraw, the ~~assistant~~ director may
25 review and terminate the marketing agreement if not enough signatories remain
26 to defray expenses of the marketing agreement.

27 B. A marketing agreement may be amended at any time with the approval
28 of the ~~assistant~~ director and all of the signatories. IF A SIGNATORY FAILS
29 TO VOTE ON A PROPOSED AMENDMENT WITHIN THIRTY DAYS AFTER NOTICE OF THE
30 PROPOSED AMENDMENT, THE SIGNATORY IS DEEMED TO HAVE APPROVED THE AMENDMENT.

31 C. A marketing agreement is binding on signatories for a period
32 specified in the marketing agreement, but not longer than twelve months. The
33 marketing agreement may be renewed for an additional three terms without the
34 requirement of a public meeting provided in section 3-425.

35 D. IF A MARKETING AGREEMENT REMAINS EFFECTIVE FOR A FOURTH TERM, THE
36 DEPARTMENT MUST HOLD A PUBLIC MEETING PURSUANT TO SECTION 3-425 DURING THAT
37 TERM. THE PROPOSED MARKETING AGREEMENT MAY AMEND THE CURRENT AGREEMENT. IF
38 THE MARKETING AGREEMENT IS REAPPROVED, THE NEW TERM BEGINS ON THE EXPIRATION
39 OF THE EXISTING TERM.

40 Sec. 16. Title 3, chapter 3, article 1, Arizona Revised Statutes, is
41 amended by adding section 3-430, to read:

42 3-430. Transfer of property on termination

43 ALL PROPERTY, EXCEPT MONIES, OF A TERMINATED COMMISSION OR COMMITTEE
44 SHALL BE TRANSFERRED TO THE DEPARTMENT. THE DEPARTMENT MAY USE OR CONVEY THE

1 PROPERTY FOR THE BENEFIT OF ANOTHER COMMISSION OR COMMITTEE OR MAY DISPOSE OF
2 THE PROPERTY AT THE DIRECTOR'S DISCRETION.

3 Sec. 17. Section 41-1005, Arizona Revised Statutes, is amended to
4 read:

5 41-1005. Exemptions

6 A. This chapter does not apply to any:

7 1. Rule that relates to the use of public works, including streets and
8 highways, under the jurisdiction of an agency if the effect of the order is
9 indicated to the public by means of signs or signals.

10 2. Order of the Arizona game and fish commission that opens, closes or
11 alters seasons or establishes bag or possession limits for wildlife.

12 3. Rule relating to section 28-641 or to any rule regulating motor
13 vehicle operation that relates to speed, parking, standing, stopping or
14 passing enacted pursuant to title 28, chapter 3.

15 4. Rule concerning only the internal management of an agency that does
16 not directly and substantially affect the procedural or substantive rights or
17 duties of any segment of the public.

18 5. Rule that only establishes specific prices to be charged for
19 particular goods or services sold by an agency.

20 6. Rule concerning only the physical servicing, maintenance or care of
21 agency owned or operated facilities or property.

22 7. Rule or substantive policy statement concerning inmates or
23 committed ~~youth~~ YOUTHS of a correctional or detention facility in secure
24 custody or patients admitted to a hospital, if made by the state department
25 of corrections, the department of juvenile corrections, the board of
26 executive clemency or the department of health services or a facility or
27 hospital under the jurisdiction of the state department of corrections, the
28 department of juvenile corrections or the department of health services.

29 8. Form whose contents or substantive requirements are prescribed by
30 rule or statute, and instructions for the execution or use of the form.

31 9. Capped fee-for-service schedule adopted by the Arizona health care
32 cost containment system administration pursuant to title 36, chapter 29.

33 10. Fees prescribed by section 6-125.

34 11. Order of the director of water resources adopting or modifying a
35 management plan pursuant to title 45, chapter 2, article 9.

36 12. Fees established under section 3-1086.

37 13. Fee-for-service schedule adopted by the department of economic
38 security pursuant to section 8-512.

39 14. Fees established under sections 41-2144 and 41-2189.

40 15. Rule or other matter relating to agency contracts.

41 16. Fees established under section 32-2067 or 32-2132.

42 17. Rules made pursuant to section 5-111, subsection A.

43 18. Rules made by the Arizona state parks board concerning the
44 operation of the Tonto natural bridge state park, the facilities located in

1 the Tonto natural bridge state park and the entrance fees to the Tonto
2 natural bridge state park.

3 19. Fees or charges established under section 41-511.05.

4 20. Emergency medical services protocols except as provided in section
5 36-2205, subsection C.

6 21. Fee schedules established pursuant to section 36-3409.

7 22. Procedures of the state transportation board as prescribed in
8 section 28-7048.

9 23. Rules made by the state department of corrections.

10 24. Fees prescribed pursuant to section 32-1527.

11 25. Rules made by the department of economic security pursuant to
12 section 46-805.

13 26. Schedule of fees prescribed by section 23-908.

14 27. Procedure that is established pursuant to title 23, chapter 6,
15 article 5 or 6.

16 28. RULES MADE BY A MARKETING COMMISSION OR MARKETING COMMITTEE
17 PURSUANT TO SECTION 3-414.

18 B. Notwithstanding subsection A, paragraph 23- 22 of this section, at
19 such time as the federal highway administration authorizes the privatization
20 of rest areas, the state transportation board shall make rules governing the
21 lease or license by the department of transportation to a private entity for
22 the purposes of privatization of a rest area.

23 C. Coincident with the making of a rule pursuant to an exemption under
24 this section, the agency shall file a copy of the rule with the secretary of
25 state for publication pursuant to section 41-1012.

26 D. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
27 chapter do not apply to the Arizona board of regents and the institutions
28 under its jurisdiction, except that the Arizona board of regents shall make
29 policies or rules for the board and the institutions under its jurisdiction
30 that provide, as appropriate under the circumstances, for notice of and
31 opportunity for comment on the policies or rules proposed.

32 E. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
33 chapter do not apply to the Arizona state schools for the deaf and the blind,
34 except that the board of directors of all the state schools for the deaf and
35 the blind shall adopt policies for the board and the schools under its
36 jurisdiction that provide, as appropriate under the circumstances, for notice
37 of and opportunity for comment on the policies proposed for adoption.

38 F. Unless otherwise required by law, articles 2, 3, 4 and 5 of this
39 chapter do not apply to the state board of education, except that the state
40 board of education shall adopt policies or rules for the board and the
41 institutions under its jurisdiction that provide, as appropriate under the
42 circumstances, for notice of and opportunity for comment on the policies or
43 rules proposed for adoption. In order to implement or change any rule, the
44 state board of education shall provide at least two opportunities for public
45 comment.

~~APPROVED BY THE GOVERNOR APRIL 12, 2011.~~

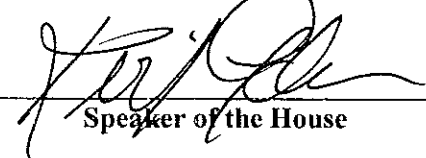
~~- 13 -~~

~~FILED IN THE OFFICE OF THE SECRETARY OF STATE APRIL 13, 2011.~~

Passed the House March 2, 2011

by the following vote: 52 Ayes,

5 Nays, 3 Not Voting

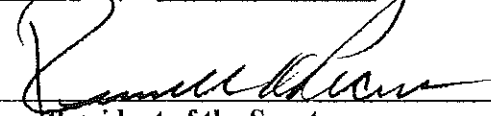

Speaker of the House

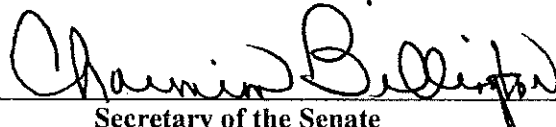

Cheryl Laube
Chief Clerk of the House

Passed the Senate April 7, 2011

by the following vote: 27 Ayes,

1 Nays, 2 Not Voting


President of the Senate

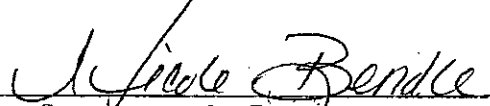

Chaimin Bellifon
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill received by the Governor this

11 day of April, 2011

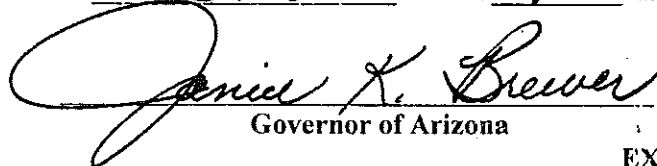
at 2:40 o'clock P. M.


Secretary to the Governor

Approved this 12th day of

April

at 3:50 o'clock P. M.


Governor of Arizona

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill received by the Secretary of State

this 13th day of April, 2011

at 10:58 o'clock a M.


Secretary of State

H.B. 2310